

Initially, the Applicant notes that claims 18-42 have been drafted to render moot the rejections thereto based on 35 USC § 112, second paragraph.

In addition, claims 18-42 have been drafted to clarify the differences between the claimed invention and the prior art, including the Artistic Ironworks product depicted at [www.artisticironworks.com](http://www.artisticironworks.com) as cited by the Examiner.

Claim 18 is directed to a bracket assembly adapted to connect a pair of vertical support members and a pair of horizontal support members to form a gate assembly. The bracket assembly comprises upper and lower distal brace assemblies and upper and lower proximal brace assemblies. Each of the brace assemblies comprises a brace section and an adjustable section. When combined to form the brace assemblies, a position of the adjustable section is fixed relative to the brace section based on a first dimension of one of the support members.

Claim 30 is directed to a method of connecting support members to form a gate assembly. The method comprises the steps of fixing positions of adjustable sections relative to brace sections to form brace assemblies. The positions of the adjustable section relative to brace sections are based on a dimension of at least one of the support members.

Claim 37 is directed to a brace assembly that may be used to form a gate assembly. The brace assembly comprises a brace section and an adjustable section. The brace assembly is adapted to be connected to a vertical support member and a horizontal support member to form the gate assembly. A position of the adjustable section relative to the brace section is fixed based on a first dimension of one of the vertical support member and the horizontal support member.

The invention as recited in claims 18-42 is structurally different from and superior in operation to the prior art systems and methods for forming gate assemblies of which the Applicant is aware, including the Artistic Ironworks product.

In particular, the Artistic Ironworks product does not have an adjustable section as recited in the claims. The use of both a brace section and an adjustable section as recited in the claims allows support members of different sizes to be accommodated. For example, a product implementing the claimed invention can be configured to be connected to a support member formed by 2 X 4 dimensional lumber and/or a support

member formed by 2 X 6 dimensional lumber. The claimed invention can even be used with irregular lumber. In contrast, the Artistic Ironworks product is pre-configured to accommodate only one size of support member, typically 2 X 4 dimensional lumber.

The claimed invention is thus different from the Artistic Ironworks product in that the claimed invention employs both a brace section and an adjustable section, while the Artistic Ironworks product does not employ anything that could be considered an adjustable section as recited in the claims. The claimed invention is superior in operation to the Artistic Ironworks product in that the claimed invention can accommodate support members of varying dimensions, while the Artistic Ironworks product cannot be configured to accommodate support members of varying dimensions.

The Applicant respectfully submits that nothing in the Artistic Ironworks reference discloses, teaches, or suggests the present invention as recited in claims 18-42, and withdrawal of the rejection based on 35 USC § 102(b) is respectfully requested.

With respect to the rejection under 35 USC § 103(a) based on the combination of the Artistic Ironworks reference and U.S. Patent No. 224,863 to Blessing, the Applicant respectfully submits that nothing in the record discloses, teaches, or suggests that these references be combined as suggested by the Examiner. In addition, even if these references are properly combinable, this combination does not disclose, teach, or suggest the claimed invention.

Initially, the Blessing reference discloses a bracket that may be adapted to hold "a sink, basin, or shelving, boxes, or other receptacles of various widths." Nothing in this patent suggests that the bracket assemblies disclosed therein could be used to form a gate assembly or that the teachings thereof be applied to a bracket for forming a gate assembly such as that disclosed in the Artistic Ironworks reference. In addition, nothing in the Artistic Ironworks reference discloses, teaches, or suggests that the brackets disclosed therein should be made adjustable or even recognizes the problem of accommodating support members of different dimensions.

The Applicant thus respectfully submits that, absent the Applicant's own disclosure in the present application, nothing in the record discloses, teaches, or suggests a motivation for one of ordinary skill in the art to modify a bracket for gates

such that the gate bracket is adjustable to accommodate different dimensions of support members. The Applicant thus respectfully submits that the Examiner has used impermissible hindsight gained from reading the Applicant's disclosure in an attempt to reconstruct the claimed invention from prior art references without regard for proper motivation for one of ordinary skill in the art to make this combination.

Given the foregoing, the Applicant respectfully submits that the Artistic Ironworks and Blessing references are not properly combinable as suggested by the Examiner, and withdrawal of the rejections under 35 USC § 103 based on this combination is respectfully requested.

Even if these references are combined as suggested by the Examiner, however, the Applicant respectfully submits that this combination fails to disclose, teach, or suggest the present invention as claimed.

In particular, claim 18 specifies that the positions of the adjustable sections are fixed relative to the brace sections based on a dimension of the vertical support members. Nothing in either the Artistic Ironworks reference or the Blessing reference discloses that the positions of the adjustable section relative to the brace sections be fixed based on the vertical support member. To the contrary, the Blessing patent is adjustable based on the length dimension of the horizontal member supported by the adjustable leg.

Claim 30 specifies that the positions of the adjustable sections are fixed relative to the brace sections based on a width dimension of the vertical support members. Neither the Artistic Ironworks reference nor the Blessing reference discloses that the positions of the adjustable section relative to the brace sections be fixed based on the width of the vertical support member. As discussed above, the Blessing patent is adjustable based on the length dimension of the horizontal member supported by the adjustable leg.

Claim 37 specifies that the positions of the adjustable sections are fixed relative to the brace sections based on a width dimension of one of the vertical and horizontal support members. The Artistic Ironworks reference and the Blessing reference do not disclose, teach, or suggest that the position of the adjustable section relative to the brace section be fixed based on the width of one of the support members. As

discussed above, the Blessing patent is adjustable based on the length dimension of the horizontal member supported by the adjustable leg.

The Applicant thus respectfully submits that claims 18, 30, and 37 distinguish over the cited combination of the Artistic Ironworks and Blessing references, respectively. Withdrawal of the rejection of claims 18, 30, and 37 based on the combination of the Artistic Ironworks references under 35 USC § 103(a) is thus respectfully requested. The Applicant further respectfully submits that claims 19-29, 31-36, and 38-42, which further define claims 18, 30, and 37, also distinguish over the cited references, and allowance of these claims is also respectfully requested.

Submitted herewith is a document (entitled Exhibit A - Listing of All Claims and Amendments (04-19-2006)) containing a listing of the claims as currently presented. The Listing attached herewith contains the text of each pending claim, along with any amendments made hereby (illustrated using strikethrough and underlining) and the status of each pending claim.

Given the foregoing, the Applicant respectfully submits that currently pending claims 18-42 are in condition for allowance, and such allowance is respectfully requested. If there is any matter which could be expedited by consultation with the Applicant's attorney, such would be welcome. The Applicant's attorney can normally be reached at the telephone number below.

Signed at Bellingham, County of Whatcom, State of Washington this 19th day of April, 2006.

Respectfully submitted,

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CERTIFICATE OF MAILING  
37 C.F.R. §1.8

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

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Date: April 19, 2006